

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated May 28, 2009. A Petition for Extension of Time (two months) and the fee therefor are submitted herewith.

Claims 23-26, 28-35 and 37-43 are pending in the Application. All claims were rejected in the Office Action. Applicant amends Claims 23, 28, 31-32, 37 and 40-43 and respectfully requests a reconsideration of the rejection.

Claims 23-26, 28-35 and 37-43 were rejected under 35 U.S.C. §102(e) as being anticipated by OpenRAM: A New Architecture for Mobile Wireless Internet Radio Access Networks by Kempf, J.; Yegani, P. (hereinafter, "Kempf"). Reconsideration of the rejection is respectfully requested.

Initially, Applicant respectfully observes that Kempf is not a prior art for the present Application under 35 U.S.C. 102(e) because Kempf is not "an application for patent" or "a patent" within the meaning of section 102(e). However, to expedite prosecution of the Application, Applicant responds herein to the merits of the rejection. Additionally, Applicant notes that the entire Kempf reference is on pages 118-123. However, the PTO-892 form lists pages "1-64 and 118-123." Appropriate correction is requested.

Independent Claim 23 recites a mobile communications system having a terminal resource controller (see, e.g., unit 110 of Fig. 3) and base station resource controllers (see, e.g., unit 120 of Fig. 3). As recited in Claim 23, the terminal resource controller controls a call signaling processing independent of the radio transmission scheme, and the base station resource controllers control a user data transfer dependent on the radio transmission scheme. To accomplish the claimed division of the control function between the terminal resource controller and base station resource controllers, each base station resource controller includes a radio layer controller located entirely within the base station resource controller. Thus, as shown in Fig. 3 of the Application, the terminal resource controller does not have the radio layer controller. These limitations of Claim 23 are not disclosed in the cited prior art.

Particularly, contrary to the Examiner's statements in the Office Action, Kempf does not disclose or even suggest that the control pane "is operable to control a call signaling processing independent of a radio transmission scheme." See, Office Action, page 2. In fact, such

independent processing is not possible in Kempf because the radio layer controller (i.e., the Radio Layer 1) of Kempf is part of both the control pane and the bearer pane. Therefore, Kempf teaches away from the recitation of the amended Claim 23 requiring that the radio layer controller is located entirely within the base station resource controller.

Claim 23 is believed to be allowable over the cited prior art. Independent Claims 31, 32, 40, 41, 42 and 43 include limitations similar to the allowable Claim 23. Specifically, Claim 31 recites a step of “positioning a radio layer controller entirely within the each base station resource controller;” Claim 32 recites that the base station resource controller includes “a radio layer controller located entirely within the base station resource controller;” Claim 40 recites a step of “positioning a radio layer controller entirely within the base station resource controller;” Claims 41 and 42 recite that “the terminal resource controller lacks a radio layer controller;” and, finally, Claim 43 recites that “each base station resource controller” includes “a radio layer located entirely within the each base station resource controller.” Therefore, Claims 31, 32, 40, 41, 42 and 43 are allowable over the cited prior art at least for the same reasons as Claim 23.

Finally, since each of Claims 24-26, 28-30, 33-34 and 37-39 is directly dependent upon one of independent Claims 23 and 32, each of Claims 24-26, 28-30, 33-34 and 37-39 is allowable for the same reasons recited above with respect to the allowability of the respective one of independent Claims 23 and 32.

In view of the foregoing amendments and remarks, allowance of claims 23-26, 28-35 and 37-43 is respectfully requested.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

Respectfully submitted,

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MAX MOSKOWITZ
Registration No.: 30,576
OSTROLENK FABER LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700